

Matthew Righetti, Esq. (121012)
John Glugoski, Esq. (191551)
RIGHETTI LAW FIRM, P.C.
456 Montgomery Street, Suite 1400
San Francisco, CA 94104
T: (415) 983-0900
F: (415) 397-9005

Richard I. Hutson, Esq. VSB#71097
FULLERTON & KNOWLES, P.C.
12642 Chapel Road
Clifton, VA 20124-1951
T: (703) 818-2600
F: (703) 818-2602
E-Mail: rhutson@fullertonlaw.com
Counsel for Creditors Jonathon Card, Jack Hernandez, Robert Gentry, Joseph Skaf and all other persons similarly situated to each.

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
Richmond Division

In re:)	Chapter 11
)	
CIRCUIT CITY STORES, INC., et al.,)	Case No. 08-35653
)	
Debtors.)	Jointly Administered
_____)	

MOTION FOR LEAVE OF COURT TO ATTEND HEARING BY TELEPHONE

JOHNATHAN CARD, on behalf of himself and all others similarly situated, JOSEPH SKAF, on behalf of himself and all others similarly situated, ROBERT GENTRY, on behalf of himself and all others similarly situated, and JACK HERNANDEZ, on behalf of himself and all others similarly situated ("Creditors"), by and through their undersigned counsel, hereby request that the Court permit Creditors' counsel to appear telephonically at the February 24, 2010 Preliminary Hearing at 2:00 p.m. on Debtor's Sixteenth and Thirty-First Omnibus Objections to Claims. In support of this Motion, Creditors state as follows:

1. On November 3, 2008, Creditor Card filed his lawsuit on behalf of himself and all other assistant managers employed by Debtors seeking overtime compensation, compensation

for missed meal and rest breaks, waiting time penalties and attorneys' fees under California law. The class action-styled case, which is entitled *Card v. Circuit City, Inc.*, is filed in the San Diego Superior Court, Case No. 37-2008-00095260-CU-OE-CTL. Creditor Card seeks to represent all California-based assistant managers who were employed by Debtors and who were not paid overtime compensation, or provided meal and rest breaks. Considerable state trial court litigation occurred prior to the bankruptcy filing.

2. On December 19, 2008, Creditor Skaf filed his lawsuit on behalf of himself and all other California-based salaried "Entertainment Managers", "Technology Managers", "Service & Installation Managers", "Sales Managers", and "Operations Managers" employed by Debtors seeking overtime compensation, compensation for missed meal and rest breaks, waiting time penalties and attorney's fees under California law. The class action-styled case, which is entitled *Skaf et al. v. Circuit City, Inc.*, is filed in the Los Angeles Superior Court, Case No. BC404195. Creditor Skaf seeks to represent all California-based "Entertainment Managers", "Technology Managers", "Service & Installation Managers", "Sales Managers", and "Operations Managers" who were employed by Debtors and who were not paid overtime compensation, or provided meal and rest breaks. Considerable trial court litigation occurred prior to the bankruptcy filing.

3. On August 29, 2002, Creditor Gentry filed his lawsuit on behalf of himself and all other customer service managers employed by Debtors seeking overtime compensation, compensation for missed meal and rest breaks, waiting time penalties and attorneys' fees under California law. The class action-styled case, which is entitled *Gentry v. Circuit City, Inc.*, is filed in the Los Angeles Superior Court, Case No. BC 280631. Creditor Gentry seeks to represent all California-based salaried customer service managers who were employed by Debtors and who were not paid overtime compensation, or provided meal and rest breaks. Considerable state trial court litigation occurred prior to the bankruptcy filing.

4. On April 17, 2008, Creditor Hernandez filed his lawsuit on behalf of himself and all other sales managers employed by Debtors seeking overtime compensation, compensation for missed meal and rest breaks, waiting time penalties and attorneys' fees under California law. The class action-styled case, which is entitled *Hernandez v. Circuit City, Inc.*, is filed in the San

Diego Superior Court, Case No. 37-2008-00082173. Creditor Hernandez filed this case as a class action to represent all California-based salaried sales managers who were employed by Debtors and who were not paid overtime compensation, or provided meal and rest breaks.

5. On January 13, 2009, Creditors Card, Skaf, Gentry, and Hernandez, through their counsel, timely filed proofs of claim with claims administrator Kurtzman Carson Consultants. Creditor Card's claim numbers 6040 and 6047. Creditor Skaf's claim is identified as claim numbers 13724 and 13744. Creditor Gentry's claim is identified as claim number 6039. Creditor Hernandez's claim is identified as claim number 6045.

6. The Creditors, Card and Skaf submitted a timely response in opposition to Debtors' Thirty-First Omnibus Objection to Claims [Docket No. 4943 and 4946]. Pursuant to Debtor's Thirty-First Omnibus Objection to Claims [Docket No. 5294], Creditors' claims are among those to be addressed at the Status Conference scheduled for February 24, 2010.

7. The Creditors, Gentry and Hernandez, submitted a timely response in opposition to Debtors' Sixtieth Omnibus Objection to Claims [Docket No. 5879]. Pursuant to Debtor's Sixtieth Omnibus Objection to Claims [Docket No. 5879], Creditors' claims are among those to be addressed at the Status Conference scheduled for February 24, 2010.

8. On November 13, 2008, the Court entered an Order Pursuant to Bankruptcy Code Section 102 and 105, Bankruptcy Rules 2002 and 9007, and Local Bankruptcy Rules 2002-1 and 9013-1 Establishing Certain Notice, Case Management, and Administrative Procedures (the "Order"). Page 5 of Exhibit A to the Order states:

- (g) Upon request, the Court may allow counsel to listen to a hearing by telephone. If a matter is contested, counsel must attend in person, unless leave of the court is granted on a case by case basis.

9. Creditors' counsel is located in California State. In order to avoid the time and expense of traveling to Virginia for the Status Conference, Creditors' counsel respectfully requests that the Court permit Creditors' counsel to appear by telephone at the February 24, 2010 status conference, rather than make a personal appearance.

WHEREFORE, Creditors Jonathan Card, on behalf of himself and all others similarly situated, Creditors Joseph Skaf, on behalf of himself and all others similarly situated, Creditors Robert Gentry, on behalf of himself and all others similarly situated and Creditors Jack Hernandez, on behalf of himself and all others similarly situated, (“Creditors”), respectfully request that this Court grant this request and enter an order substantially in the form attached hereto permitting Matthew Righetti to appear and be heard by telephone at the hearing on February 24, 2010 on behalf of the Creditors and grant such other relief as necessary and appropriate.

Respectfully submitted,

Dated: February 8, 2010

/s/ Richard I. Hutson
Richard I. Hutson, Esq. VSB#71097
FULLERTON & KNOWLES, P.C.
12642 Chapel Road
Clifton, VA 20124-1951
T: (703) 818-2600
F: (703) 818-2602
E-Mail: rhutson@fullertonlaw.com

-and -

Matthew Righetti, Esq. (121012)
John Glugoski, Esq. (191551)
RIGHETTI LAW FIRM, P.C.
456 Montgomery Street, Suite 1400
San Francisco, CA 94104
T: (415) 983-0900
F: (415) 397-9005

Counsel to Jonathan Card, on Behalf of
Himself and All Others Similarly Situated,
Joseph Skaf, on Behalf of Himself and All
Others Similarly Situated, Robert Gentry, on
behalf of himself and all others Similarly
Situated and Creditors Jack Hernandez, on
behalf of himself and all others Similarly
Situated

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John Glugoski, Esq. (191551)
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CIRCUIT CITY STORES, INC., et al.,)	Case No. 08-35653
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<u>Debtors.</u>)	Jointly Administered

ORDER GRANTING
MOTION FOR LEAVE OF COURT TO ATTEND HEARING BY TELEPHONE

Upon consideration of the Motion for Leave of Court to Attend Hearing by Telephone, and it appearing that the motion having been served upon counsel for Circuit City Stores, Inc., et al. (the "Debtors"), counsel for the Official Committee of Unsecured Creditors, and the Office of the United States Trustee for the Eastern District of Virginia, and after due deliberation and sufficient cause appearing therefore, it is hereby,

ORDERED, that the Motion is **GRANTED** and Matthew Righetti is permitted to appear and be heard by telephone at the hearing on February 24, 2010 at 2:00 p.m. on behalf of Creditors Jonathan Card, on behalf of himself and all others similarly situated, Joseph Skaf, on behalf of himself and all others similarly situated, and Creditors Jack Hernandez, on behalf of himself and all others similarly situated, and Robert Gentry, on behalf of himself and all others similarly situated.

_____, 2010

HONORABLE KEVIN R. HUENNEKENS
UNITED STATES BANKRUPTCY JUDGE

We ask for this:

/s/ Richard I. Hutson
Richard I. Hutson, Esq. VSB#71097
FULLERTON & KNOWLES, P.C.
12642 Chapel Road
Clifton, VA 20124-1951
T: (703) 818-2600
F: (703) 818-2602
E-Mail: rhutson@fullertonlaw.com

-and -

/s/ Mathew Righetti
Matthew Righetti, Esq.i (121012)
John Glugoski, Esq. (191551)
RIGHETTI LAW FIRM, P.C.
456 Montgomery Street, Suite 1400
San Francisco, CA 94104
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CERTIFICATE OF SERVICE

I hereby certify that on this 9th day of February 2010, a copy of the foregoing Motion and Proposed Order was served using the Court's CM/ECF system and thereby served electronically upon all registered users of the ECF system that have filed a 2002 notice of appearance in this matter, and served via regular US mail, first class, postage prepaid upon the following Core Group, which includes the Debtors, co-counsel to the Debtors, the Office of the United States Trustee, co-counsel for any committee, counsel to the agents for the Debtors' pre-petition lenders, and counsel to the agents for the Debtors' post-petition lenders, as required by the Case Management Order.

The Debtors

Circuit City Stores, Inc.
Attn: Michelle Mosier
4951 Lake Brook Dr., Suite #500
Glen Allen, VA 23060

Office of the U.S. Trustee

Attn: Robert B. Van Arsdale
701 East Broad Street, Suite 4304
Richmond, VA 23219

Debtors' Counsel

SKADDEN, ARPS, SLATE, MEAGHER & FLOM, LLP

Attn: Greg M. Galardi and Ian S. Fredericks
One Rodney Square
10th and King Street, 7th Fl.
Wilmington, DE 19801

SKADDEN, ARPS, SLATE, MEAGHER
& FLOM, LLP
Attn: Chris L. Dickerson
155 N. Wacker Drive
Chicago, IL 60606

MCGUIRE WOODS LLP
Attn: Douglas M. Foley and
Dion W. Hayes
901 E. Cary Street
Richmond, VA 23219

Counsel for the Creditors' Committee
PACHULSKI STANG ZIEHL & JONES, LLP
Attn: Jeffrey N. Pomerantz and Stanley E. Goldich
10100 Santa Monica Blvd., 11th Fl.
Los Angeles, CA 90067

PACHULSKI STANG ZIEHL & JONES, LLP
Attn: Robert J. Feinstein
780 Third Avenue, 36th Floor
New York, NY 10017

TAVENNER & BERAN, PLC
Attn: Lynn L. Tavenner and
Paula S. Beran
280 N. Eighth Street, 2nd Fl.
Richmond, VA 23219

Debtors' Special Counsel
KIRKLAND & ELLIS, LLP
Attn: Linda K. Myers
200 E. Randolph Dr.
Chicago, IL 60601

/s/ Mathew Righetti
Matthew Righetti, Esq.